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Technical assistance and capacity-building

Report of the team of international experts on the situation in Kasai*

Summary

This report is submitted pursuant to Human Rights Council resolution 45/34 of 7 October 2020, which renewed the mandate of the team of international experts on the situation in Kasai and requested it to submit a final report to the Council at its forty-eighth session during an interactive dialogue and to provide an oral update at its forty-sixth session. The report comes against the background of the coronavirus disease (COVID-19) pandemic, the withdrawal of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) from Kasai and Kasai Central provinces and a volatile political climate that has seen some governors of the Kasai region deposed. The socioeconomic and security situation is characterized by successive intercommunal clashes, runaway rates of urban crime, food insecurity and a deplorable humanitarian situation linked in part to the ongoing forced expulsion or refoulement of Congolese living in Angola.

Regarding the fight against impunity, apart from a few positive developments, the team of international experts noted a lack of meaningful progress in the processing of cases brought against perpetrators of serious violations of human rights and international humanitarian law committed during the crisis linked to the Kamuina Nsapu militia. None of the 16 priority cases that the Congolese military justice system has identified and taken up since 2019 has, thus far, been referred to the courts.

The trial of the alleged murderers of Zaida Catalán and Michael Sharp, who were members of the Security Council's Group of Experts on the Democratic Republic of the Congo, is stalled, with no sign of a swift resolution. The case of their Congolese guides has seen little progress.

The team of international experts believes that there is an urgent need to deploy additional human resources and step up the recruitment of new military judges.

The team of international experts was informed of the investigative measures taken by the military justice system in the cases of the women enslaved by Bana Mura militiamen and welcomes the fact that some of the women have been freed. The team urges the Government to redouble efforts to secure the release of the other women and to arrest all their alleged enslavers.

* It has been agreed to publish the present report after the planned publication date owing to circumstances outside the control of the submitting office.



Concerning the strategies on reconciliation, transitional justice, victim assistance and reparations, the team of international experts observed a number of significant gains at the national and provincial levels. These include the launch and ownership of the transitional justice process by the highest authorities of the State and the adoption of the edict on the establishment, organization, powers and functioning of the Truth, Justice and Reconciliation Commission of Kasai Central Province.

The team of international experts believes that there is an inevitable nexus between punitive justice and transitional justice.

The team of international experts welcomes the Government's decision to decentralize the transitional justice process in the Democratic Republic of the Congo, as well as the symbolic request for forgiveness addressed to victims.

Given this momentum, and in the interest of promoting local projects to facilitate community reconciliation, the team of international experts suggests that the interministerial task force, which met only once during the reporting period, be given the mandate to coordinate transitional justice arrangements nationwide, with the support of an adequately resourced permanent secretariat.

I. Introduction

1. The present report, which covers the period from October 2020 to September 2021, is submitted pursuant to Human Rights Council resolution 45/34 of 7 October 2020, which renewed the mandate of the team of international experts on the situation in Kasai, tasking it with observing, assessing and assisting the efforts of the Democratic Republic of the Congo to implement the recommendations of the previous team of international experts.¹ The team was requested to submit a final report to the Council at its forty-eighth session during an interactive dialogue and to provide an oral update at its forty-sixth session.

2. In order to facilitate the performance of this mandate, the Human Rights Council, in its resolution 45/34, reiterated the request contained in its resolution 41/26 of 12 July 2019 that the United Nations High Commissioner for Human Rights provide, at the request of the authorities, technical assistance, including the necessary forensic expertise, to the Government of the Democratic Republic of the Congo in order to support the judicial authorities in their investigations into allegations of human rights violations and abuses in the Kasai region and other regions of the country, with a view to bringing those responsible to justice.

3. The international experts Bacre Waly Ndiaye, of Senegal, Chair of the team, and Marie-Thérèse Keita-Bocoum, of Côte d'Ivoire, a team member, were appointed for this purpose by the Human Rights Council. In the performance of its mandate, the team of international experts was supported by a secretariat consisting of a coordinator based in Kinshasa and a human rights official based in Kananga who is specialized in transitional justice. The team of international experts amended its workplan, adding the activities that could not be carried out in 2020 due to the COVID-19 pandemic. In accordance with this workplan, the team of international experts conducted two field visits to the Democratic Republic of the Congo, the first from 17 to 27 March 2021 and the second from 18 June to 2 July 2021.

4. During the first visit, the team of international experts held two meetings with members of the Government of the Democratic Republic of the Congo, the judicial authorities, the Head of MONUSCO and all United Nations agencies, as well as the diplomatic corps, civil society and the press.

5. Meanwhile, the Chair of the team of international experts participated, from Kinshasa, in the interactive dialogue on the Democratic Republic of the Congo at the forty-sixth session of the Human Rights Council.

6. During the second visit, in addition to the usual meetings with representatives of the Government, the military justice authorities, the diplomatic corps, United Nations agencies, civil society, the press and traditional leaders, the team of international experts attended an official ceremony in Tshisuku, on 22 June 2021, for the return of the bodies of the victims of the Tshisuku massacre² and the inauguration of a mausoleum erected in the victims' memory.

7. In addition, the team of international experts held a workshop on 23 and 24 June 2021 in Tshikapa, Kasai Province, to reflect on reconciliation and transitional justice in the Kasai region.

II. Mandate

8. To carry out its mandate, the new team of international experts adopted a three-pronged approach, namely: (a) monitoring judicial cases in the context of the fight against impunity; (b) monitoring the reconciliation, transitional justice and reparation process; and (c) providing institutional support to the State bodies responsible for implementing recommendations.

¹ See A/HRC/45/50.

² Summary execution of at least 79 civilians at Tshisuku market by members of the Armed Forces of the Democratic Republic of the Congo on 7 May 2017. In addition to the killings, there were also incidents of rape and looting.

9. The current team of international experts carried out its mandate against the background of the withdrawal of MONUSCO from Kasai and Kasai Central provinces.

10. The closure of the Tshikapa and Kananga field offices marked the complete withdrawal of MONUSCO from the Kasai region.

11. It should be noted that some United Nations agencies and the Office of the United Nations High Commissioner for Human Rights (OHCHR) have maintained a presence in the Kasai region.

12. In this context, it goes without saying that the presence and activities of the team of international experts, alongside entities of the United Nations system and other partners, give encouragement to the Government and help guide its efforts to implement the team's recommendations.

13. Despite the public health situation arising from the COVID-19 pandemic, the team of international experts has striven to discharge its mandate through field visits and its secretariat's activities on the ground. Thanks to these combined efforts, the team was able to assess the Government's efforts to prosecute the perpetrators of serious offences committed during the Kamuina Nsapu militia crisis. The team was also able to bring to the Government's attention the barriers to the fight against impunity, the promotion of truth and reconciliation, community reintegration and reparations, as well as the many challenges it faces in the security, humanitarian and development domains.

14. The activities of the team of international experts complement those of United Nations agencies and give partners the opportunity to discuss their projects and programmes with the Congolese authorities within a set framework.

III. Cooperation between the team of international experts and the authorities of the Democratic Republic of the Congo

15. The team of international experts enjoyed genuine collaboration and fruitful cooperation with the Congolese authorities. The secretariat, based in Kinshasa and Kananga, was able to carry out its work without any obstacles and benefited from the openness of its Congolese interlocutors.

16. That open-mindedness was apparent at the various meetings between the Ministry of Human Rights and the team of international experts. For instance, the team took part in a meeting of the interministerial task force on Kasai on 28 June 2021, where it could observe the dynamism of the new interministerial team, which clearly opted for the decentralization of the provincial transitional justice process.

IV. Current situation in the Kasai region

17. The political situation in the Kasai region is very volatile, especially in the provinces of Lomami, Kasai, Kasai Central and Kasai Oriental, whose governors have been the object of motions of no confidence and have, in some cases, been deposed. These political changes are taking place in a particularly difficult security and social context.

18. On the security front, the region has seen a series of intercommunal clashes, which exposed the fragility of the relative calm observed since the end of the Kamuina Nsapu militia crisis. For example, there was a clash between members of the Lulua and Kuba communities in the village of Mwenge, Bakwakenge, Kasai Province, from 26 to 28 March 2021. The clash led to the death of at least 13 people, the burning of 190 homes and the displacement of at least 21,000 people.³

19. There was also a rise in urban crime during the reporting period. According to the information gathered by the United Nations Joint Human Rights Office in the Democratic

³ Report of the Office of the United Nations High Commissioner for Refugees on migrants and refugees, 16 April 2021.

Republic of the Congo, during the last week of March 2021, armed individuals, sometimes wearing uniforms of the defence and security forces, entered private residences in Kasai Central Province and the city of Kananga at night, where they committed various violations of the right to property, including extortion and robbery, as well as rape, and engaged in cruel, inhuman and degrading treatment.⁴ Those offences were reported by the public. On 13 February 2021, in answer to a call by women's civil society organizations in Kasai Central, several women's associations protested in Kananga to demand that the authorities enhance security.

20. The team of international experts notes that the rise in crime in the Kasai region stems from the lack of appropriate action to quell residual Kamuina Nsapu activity. This concern was raised in the last report of the previous team of international experts.⁵ According to civil society, the insecurity is attributable to the arrival of unpaid military personnel from Kamina, the reorganization of militias and the expansion of illegal checkpoints used to extract money from the population. In civil society's view, it is crucial that former militiamen be reintegrated into the community.

21. On the health front, the Kasai region was essentially shielded from the COVID-19 pandemic until September 2020, but the figures published during the first half of 2021 indicate an upward trend in infections, particularly in Kasai and Kasai Central provinces. On the socioeconomic front, poverty is becoming endemic. Basic necessities and foodstuffs, which are mainly imported from Angola, are increasingly expensive. Peaceful marches to protest against the rising cost of living have taken place in recent months in most of the large cities in Kasai, including Mbuji-Mayi, Kananga and Tshikapa.⁶

22. Despite the situation described above, the team of international experts did its best to fulfil its mandate.

V. Monitoring, evaluation and support for implementation by the Democratic Republic of the Congo of the recommendations made by the previous team of international experts

23. The team of international experts organized two visits to the Democratic Republic of the Congo, during which it met with the Congolese authorities to follow up on the implementation of the recommendations contained in the last report of the previous team. Those recommendations centred around two main concerns: the monitoring of efforts to establish responsibility for the violations of human rights and international humanitarian law committed in the Kasai region; and the issue of transitional justice and reconciliation in that region.

A. Monitoring of efforts to establish responsibility for the violations of human rights and international humanitarian law committed in the Kasai region

24. The monitoring of efforts to establish responsibility focused on three areas: the fight against impunity, obstacles to the administration of justice and the current situation of victims and witnesses.

⁴ Weekly report for 15–21 May 2021 of the Kananga-Tshikapa field office of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo.

⁵ A/HRC/45/50, para. 11.

⁶ Activity report of the Kananga field office of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo.

1. Efforts to combat impunity

(a) Context and analysis

25. In its last report, the previous team of international experts raised concerns about the slow pace of the judicial process in cases brought against the alleged perpetrators of serious human rights violations committed during the Kamuina Nsapu militia crisis.⁷ The team of international experts finds that, unfortunately, there has been no noticeable change in the situation. At the time of writing, none of the priority cases identified and taken up by the Congolese military justice system has, thus far, been referred to the courts.

26. The slow pace of the judicial process has compelled victims' associations and civil society in the Kasai region to call on the Secretary-General of the United Nations to advocate for the establishment of a special tribunal for the prosecution of crimes committed during the Kamuina Nsapu crisis.⁸

(b) Prosecution and investigation of court cases

27. The team of international experts notes with satisfaction that, with the support of the technical assistance team deployed by OHCHR, the investigations into the crimes committed in Mulombodi, Nganza and Tshisuku have been completed at the level of the senior military prosecutor's office at the military court of the former Kasai Occidental Province and have been referred to the Office of the Chief Military Prosecutor for reasons of jurisdiction, as elements of the cases involve generals of the Armed Forces of the Democratic Republic of the Congo. The team of international experts encourages the investigating judges to redouble their efforts to ensure that the cases are processed expeditiously and referred to a court.

28. The team of international experts notes that, in the Kamonia case involving a provincial deputy, the senior military prosecutor's office in Kananga requested support to conduct a joint investigation mission in the field. Similarly, a request was made in the Malenga case for support in identifying the remains through DNA testing. In the Kamako case, the prosecutor's office requested expert assistance to exhume the bodies and hear some 67 victims and witnesses.

29. The team of international experts urges the senior military prosecutor's office at the military court of the former Kasai Occidental Province and the Office of the Chief Military Prosecutor at the Military High Court to establish, together with the technical assistance team deployed by OHCHR, a detailed calendar to ensure that the necessary missions can be carried out within a reasonable time frame.

30. The team of international experts welcomes the considerable support that the technical assistance team deployed by OHCHR provided to the Congolese justice system in investigating offences committed during the Kamuina Nsapu militia crisis and hopes that the technical assistance will be continued and expanded.

31. The team of international experts has taken note of the sentencing, on 16 March 2021, by the garrison military court of Kananga, of Laurent Nsumbu, a former militiaman prosecuted for murder, terrorism, conspiracy and war crimes, to rigorous imprisonment for life.

32. The team of international experts takes note, in the case of the women enslaved by Bana Mura militiamen, of the hearing granted to 26 women and girls who were released by, or escaped from, their captors. The team was informed of the death, in early August 2021, of Chief Muyej Kamba Shatshionga, a provincial deputy and the main suspect in that case. He and both of his sons had already been questioned by the senior military prosecutor's office in Kananga.

33. The team of international experts urges the Government to redouble its efforts to secure the release of the women who remain enslaved and to speed up the investigation into

⁷ A/HRC/45/50, para. 41.

⁸ Memorandum of the Grand Kasai Association of Victims dated 14 March 2021, transmitted to the Head of the MONUSCO office in Kananga.

the complaints of those who were able to escape, with a view to swiftly bringing to justice the perpetrators of these offences and their accomplices.

34. Regarding the trial of the alleged murderers of Zaida Catalán and Michael Sharp, members of the Security Council's Group of Experts on the Democratic Republic of the Congo, the team of international experts notes with regret that the hearings have been so long and yet have failed to bring an end to proceedings.

35. Moreover, concerns remain about the investigation into the disappearance of their Congolese guides, given that the circumstances of the disappearance cannot be dissociated from the murder of the two United Nations experts. There is still no hard evidence of the guides' death. While the Civil Code rule on duration of absence has been lawfully invoked to conclude that they have died, the conclusion is nothing more than an assumption. No serious investigative measure that might shed light on the circumstances of the guides' disappearance should be overlooked, even if it means that the case of the two experts has to be tried separately.

2. Barriers to the administration of justice in the Kasai region

36. In the light of the foregoing, the team of international experts notes the scale of the challenges and underscores the presence of certain barriers to the administration of justice in the Kasai region.

37. In its last report, the previous team of international experts emphasized that the shortage of judges was one of the obstacles facing the judicial system in Kasai.

38. The team of international experts notes with regret that, over a year later, the number of judges, especially in the military system, and the working conditions are unchanged. According to the Office of the Chief Military Prosecutor at the Military High Court, no military judges have been recruited since 2010, and the shortage of judges is felt across the jurisdiction of the military courts.

39. The team of international experts notes that staffing shortages are compounded by a lack of equipment. The senior military prosecutor's office in Kananga does not have the necessary vehicles to cover its entire district, namely Kasai and Kasai Central provinces. With the withdrawal of MONUSCO, which provided the most logistical support to the military justice system, these difficulties will get worse.

40. The team of international experts reaffirms that increasing the number of judicial professionals in the various areas of the Kasai region is a precondition for meeting the population's high expectations with regard to combating impunity. In addition, it believes that to resolve the shortage of human and material resources, the military justice system's capacity needs to be doubled if it is to adapt to the redistricting and have a senior military prosecutor's office in each province. The team of international experts suggests a temporary solution whereby judges would be deployed for at least 18 months to exclusively oversee the processing of cases stemming from the Kamuina Nsapu militia crisis. This would give the Congolese authorities an opportunity to demonstrate their ability to administer justice in an independent manner by redeploying internal resources.

41. The team of international experts recalls the close connection between strengthening the human and material resources of the justice system and having an effective policy to combat impunity.

3. Current situation of victims and witnesses

42. The victims are still awaiting the trials of the alleged perpetrators of the serious violations of human rights and international humanitarian law to which they were subjected during the Kamuina Nsapu militia crisis. The victims have established an association to defend their interests with a view to interacting more effectively with the judicial system and with the civilian and political authorities. Most of them are weary of the slow pace of the judicial proceedings and feel that perpetrators of offences enjoy a degree of impunity.

43. At a meeting in Kananga on 21 June 2021, members of civil society stressed that most of the victims are women and that the lack of support has heightened their vulnerability and, unfortunately, in some cases, has contributed to their death.

44. While civil society organizations welcome the arrest of members of the Kamuina Nsapu militia, they have their doubts about whether the victims will actually receive compensation.

45. The team of international experts commends the Government for its initiative aimed at establishing a compensation fund for victims of the armed conflict and encourages it to operationalize the fund as soon as possible in order to end the anguish and frustration of victims, who feel abandoned.

46. The team of international experts recalls that the case of the women who were enslaved and sexually exploited by the Bana Mura has not yet been clarified or resolved.

47. The team of international experts is of the view that there is an inevitable nexus between retributive justice and transitional justice insofar as there cannot be forgiveness, reconciliation or guarantees of non-repetition in a context of total impunity.

B. Transitional justice and reconciliation in the Kasai region

48. In its last report, the previous team of international experts welcomed the efforts made by the Congolese authorities in the area of community reconciliation and transitional justice through, on the one hand, the Government's plan to establish a national council for conflict prevention and transformation, and, on the other, the implementation of transitional justice mechanisms in Kasai Central.⁹

49. The team of international experts welcomes the solemn declaration of President Félix Tshisekedi reaffirming the need to put in place transitional justice mechanisms at the national level to address the grim legacy of violence in the country and to provide an opportunity to restore a peaceful environment conducive to national reconciliation. He reiterated this statement in September 2020, during his address to the United Nations General Assembly. The team of international experts welcomes the initiatives taken by Congolese civil society to organize a round table of experts on transitional justice in January 2021 and a workshop on building the capacity of civil society in the field of transitional justice in May 2021. It welcomes the establishment by civil society of a working group on transitional justice.

50. The team of international experts commends the considerable progress made in the field of transitional justice in Kasai Central Province thanks to the implementation of the peace, justice, reconciliation and reconstruction project, and appreciates the commendable follow-up project on spontaneous surrender in Kasai and Tanganyika.

51. The team of international experts calls on the Government of the Democratic Republic of the Congo and development partners to support the effective implementation, in accordance with international standards, of the Commission on Truth, Justice and Reconciliation of Kasai Central Province and to offer encouragement for this pilot project.

1. Establishment of the Commission on Truth, Justice and Reconciliation of Kasai Central Province

52. The team of international experts notes that the Provincial Assembly of Kasai Central adopted, on 28 June 2021, an edict on the establishment, organization, mandate and functioning of the Commission on Truth, Justice and Reconciliation of Kasai Central Province. The methodology and process followed to establish the Commission were commendable and could serve as a reference for the implementation of reconciliation processes in other provinces and across the country.

⁹ A/HRC/45/50, paras. 53 and 59.

53. The team of international experts welcomes the promulgation on 15 July 2021 by the Interim Governor of Kasai Central of the edict of 28 June 2021 adopted by the Provincial Assembly.

54. The team of international experts supports the effective operationalization of the Commission on Truth, Justice and Reconciliation of Kasai Central Province. To this end, it recommends that the provincial authorities should define the legal framework necessary for the Commission to function, speed up the implementation of its organizational and operational mechanisms – particularly those relating to the selection of its members – and the drafting of its rules of procedure and accompanying handbook, and identify the resources necessary for its proper functioning.

55. In order to ensure the effective functioning of the Commission on Truth, Justice and Reconciliation of Kasai Central Province, the team of international experts calls for the mobilization of bilateral and multilateral partners to provide it with the resources necessary for it to operate.

2. Links between the provincial, regional, interregional and national dimensions of a harmonized transitional justice process in the Democratic Republic of the Congo

56. In order to gain a better understanding of the Government's position on the links between the provincial, regional and national dimensions of a harmonized transitional justice process, the team of international experts organized a workshop on reconciliation and transitional justice in the Kasai region on 23 and 24 June 2021, in Tshikapa. The workshop brought together stakeholders from the political, social, religious, judicial, traditional, military and voluntary sectors.

57. The team of international experts notes with satisfaction that the Government publicly indicated at the workshop that it favours a decentralized approach to transitional justice mechanisms, with a central body responsible for coordinating the implementation of the outcomes and harmonization of the operating criteria of the different experiments under way in the country.

58. The team of international experts suggests that the mandate of the interministerial task force should be strengthened and expanded and that it should be provided with a permanent secretariat for this purpose.

59. The team of international experts notes with interest the proposals made by various participants in the discussion to extend their current mandate so as to cover transitional justice at the national level, in response to the request made at the highest level of the State for international technical assistance in this area.

3. Disarmament and socioeconomic reintegration measures

60. Noting that the violent phase of the Kamuina Nsapu militia crisis is now over, the team of international experts welcomes developments in the treatment of demobilized militiamen through socioeconomic reintegration and transitional justice initiatives under the spontaneous surrender project in Kasai and Tanganyika. This project draws on peacebuilding, justice and reparation efforts to reconcile communities affected by the crisis in the provinces of Kasai Central, Kasai and Tanganyika.

61. At the Tshikapa workshop on 23 and 24 June 2021, the team of international experts nevertheless noted, during the working group discussions, the concerns expressed by participants about the lack of consideration shown to victims and the priority treatment of former combatants under the spontaneous surrender project in Kasai and Tanganyika.

62. The team of international experts suggests that at least equal attention should be paid to the victims of the armed conflict.

63. While welcoming the various initiatives that are under way, the team of international experts reiterates the urgent need to disarm all militiamen without distinction and to ensure their socioeconomic reintegration.

4. Socioeconomic and humanitarian situation

64. The socioeconomic situation in the Kasai region is a subject of particular interest that was regularly brought up in the reports of previous teams of international experts.¹⁰ The team of international experts reiterates that efforts to combat impunity and achieve reconciliation will not produce tangible and satisfactory results unless the socioeconomic dimension of the conflict in Kasai is taken into consideration.

65. The team of international experts is concerned about the food insecurity triggered by, among other things, the arrival of expelled or returning population groups from Angola and the limited food-supply channels in Kasai and Kasai Central provinces. This situation has been exacerbated by the COVID-19 pandemic, the measures taken to eradicate it and the poor state of the road infrastructure, as well as police harassment and extortion linked to the anarchic and costly establishment of checkpoints on the road network.

66. The team of international experts welcomes the chain of solidarity created around the Nexus approach in Kasai and Kasai Central provinces to link humanitarian action to peace and development initiatives and to coordinate an international presence in these provinces after the withdrawal of MONUSCO. The team welcomes this approach, which strengthens cooperation between development partners, provincial governments and civil society.

67. On the humanitarian front, the team of international experts notes that voluntary repatriations of Congolese living in Angola organized by the Office of the United Nations High Commissioner for Refugees (UNHCR) have been suspended since March 2020 owing to the closure of the border between the Democratic Republic of the Congo and Angola as a result of the COVID-19 health crisis. It notes that this suspension has unfortunately resulted in the unilateral refoulement of Congolese to the Democratic Republic of the Congo by the Angolan authorities. The team of international experts notes the need to take more measures specifically to help women cope with the humanitarian crisis. It stresses that special attention should be paid to displaced women heads of household and girls, owing to their specific vulnerability.

68. Following its meeting with UNHCR on the issue of expulsion and refoulement, the team of international experts welcomes the programme implemented jointly by UNHCR, the International Organization for Migration and the Government of the Democratic Republic of the Congo to provide support to persons on the move.

69. The team of international experts has noted that the strategy chosen to allow access to land for some internally displaced persons and some persons expelled or turned back from Angola was to relocate them in certain territories in the provinces of Kasai and Kasai Central. This initiative, although helpful, will require sustained action to ensure the long-term peaceful coexistence of the population groups.

70. During the Tshikapa workshop, the team of international experts noted that one of the issues raised was the rejection by some people from the province of population groups from other parts of the Democratic Republic of the Congo, commonly referred to as “newcomers”. In the opinion of the participants, this division is maintained and manipulated by certain political actors.

VI. Conclusions and recommendations

A. Conclusions

71. **The team of international experts welcomes the implementation by the Government of the Democratic Republic of the Congo of some of its recommendations and encourages it to implement those that have not been implemented.**

72. **The team of international experts welcomes the full cooperation of the Government and its openness to implementing the recommendations on Kasai. It**

¹⁰ See, for example, A/HRC/41/31, para. 78.

appreciates the solemn commitment of the highest Congolese authorities to use the transitional justice process as an alternative conflict resolution mechanism.

73. The team of international experts reiterates the urgent need to make the fight against impunity the foundation and the catalyst for a return of the region to peace and stability. It stresses the complementarity of retributive justice and transitional justice in that there can be no forgiveness, reconciliation or guarantee of non-repetition without truth and justice.

74. The team of international experts notes that, following the Tshikapa workshop, the Government decided to decentralize the transitional justice process in the Democratic Republic of the Congo.

75. The team of international experts welcomes the initiatives taken by Congolese civil society to support the Government in the transitional justice process and encourages it to continue its efforts to build capacity in the field of transitional justice.

76. The team of international experts notes that, while the violent phase of the Kamuina Nsapu militia crisis is over, the causes of the crisis remain, its consequences have not been redressed and no guarantees of non-repetition are as yet in place.

77. The team of international experts notes that, despite the relative calm in the Kasai region, ordinary crime is increasing and the humanitarian situation is worrying in the context of the COVID-19 pandemic.

78. The team of international experts notes that most of the recommendations made in the last report of the previous team have unfortunately not yet been implemented.¹¹ The latter had recommended that the authorities of the Democratic Republic of the Congo take the following steps:

(a) Continue to work to secure the immediate release of the women and children who are still being held captive by the Bana Mura militia in Kamonia, Kasai Province;

(b) Adopt an investigation and prosecution strategy that encompasses all categories of perpetrators of serious crimes in Kasai, regardless of their status or position, their motive or the place where the crime was committed;

(c) Allocate to the military justice system in Kasai sufficient financial resources and the personnel, equipment and logistical resources that are necessary for it to investigate cases and issue rulings without undue delay;

(d) Consider the possibility of recruiting female staff to work for the military justice authorities in Kasai, and overcome the shortage of staff by making greater use of the civil justice system and the pool of talent offered by the bar association;

(e) Ensure that specialized personnel are assigned the specific task of investigating and prosecuting crimes of sexual violence and crimes involving minors;

(f) Ensure that the disarmament process that is under way applies to all militias without distinction and helps to facilitate reconciliation by ensuring the effective return of militia members to their respective communities, with a gender-specific approach;

(g) Establish genuine reparation mechanisms for victims and ensure that they function effectively;

(h) Provide the interministerial working group with substantial financial and material resources to facilitate its effective functioning and with a plan for the implementation of the recommendations, with a timetable and allocation of the corresponding budgetary resources;

(i) Extend to other conflict-affected provinces the lessons learned from the transitional justice mechanisms pilot project in Kasai Central Province;

¹¹ A/HRC/45/50, paras. 80 and 81.

- (j) Proceed with the effective disarmament of all militias, without distinction;
- (k) Support the disarmament of ex-militia members with the spontaneous surrender project in Kasai and Tanganyika;
- (l) Ensure the effective functioning of the courts in the Kasai region;
- (m) Recruit women judges and station them in the military courts of the Kasai region to better address the numerous cases of rape and sexual violence against women and the specific situation of displaced women and girls.

B. Recommendations

79. While reiterating the need to implement the recommendations of previous reports, the team of international experts also makes the following recommendations.

1. Prevention of impunity

80. The team of international experts recommends that the Government of the Democratic Republic of the Congo, with the support of development partners, deploy for a period of at least 18 months adequately resourced judges to deal exclusively with the cases related to the Kamuina Nsapu militia crisis.

81. The team of international experts urges the Government to redouble its efforts to free the women who are still enslaved and to speed up the investigation by the military justice system of the complaints of those who have managed to escape, so as to ensure that the perpetrators of these crimes and their accomplices are brought to justice quickly.

82. The team of international experts recommends that United Nations agencies, the Peacebuilding Fund and development partners should, through their various projects and programmes, continue to provide concrete support to the competent authorities in the fight against impunity, with a particular focus on strengthening the autonomy of national institutions and promoting reconciliation and transitional justice.

83. The team of international experts reminds the Congolese State of the need to increase the number of judges through recruitment.

84. The team of international experts encourages the Ministry of Justice, the Supreme Council of the Judiciary and the bar association to increase the number of in-service training sessions for civilian judges and lawyers on the handling of international crimes.

85. The team of international experts welcomes the Congolese Government's act of recognition of responsibility and request for forgiveness, as solemnly expressed by the Minister for Human Rights in Tshisuku during the ceremony for the return of the remains of some of the victims, and recommends that this act of contrition be translated into concrete action, in particular the adjudication of the cases of the 16 priority cases opened in the context of the Kamuina Nsapu militia crisis.

86. The team of international experts encourages the Office of the United Nations High Commissioner for Human Rights to continue to support the Congolese judiciary through its technical assistance team deployed in the Democratic Republic of the Congo.

2. Conflict prevention

87. The team of international experts notes the interconnection between land disputes, resource exploitation and community conflicts and calls on the Government of the Democratic Republic of the Congo to prioritize their resolution in order to prevent the recurrence of human rights violations in the above-mentioned conflicts.

88. The team of international experts recommends that the current review of the law establishing the status of traditional leaders should give more attention to the prevention and amicable resolution of chieftaincy disputes.

89. The team of international experts urges the Governments of the Democratic Republic of the Congo and Angola to include the humanitarian dimension and respect for human rights in any expulsion or repatriation measures.

90. The team of international experts encourages the Office of the United Nations High Commissioner for Refugees to resume the organization of voluntary repatriations of Congolese refugees living in Angola, in consultation with the two Governments.

3. Reconciliation and reintegration

91. The team of international experts recommends that the Government of the Democratic Republic of the Congo establish a national body to oversee transitional justice, reparation and compensation mechanisms. It suggests that the interministerial working group set up by the Government could be reformed and strengthened to perform this function with the support of a permanent secretariat.

92. In view of the Government's decision to decentralize the transitional justice process, the team of international experts recommends the organization of a national workshop on transitional justice to discuss the pilot project under way in the Kasai region.

93. The team of international experts recommends that the Office of the United Nations High Commissioner for Human Rights and other United Nations agencies retain a presence and remain actively involved in Kasai by providing technical support for all measures taken to combat impunity and to reconcile communities in Kasai, including those relating to the disarmament of ex-militiamen and community reintegration.

94. The team of international experts calls for the mobilization of bilateral and multilateral partners to provide the Commission on Truth, Justice and Reconciliation of Kasai Central Province with the necessary resources to operate in accordance with international standards.

4. Reparation

95. The team of international experts encourages the Government to make the compensation fund for victims of the armed conflict operational as soon as possible.

96. The team of international experts encourages the continuation of the spontaneous surrender project in Kasai and Tanganyika and suggests that it also take into account the situation of victims.

97. The team of international experts recommends that the United Nations Human Rights Council remain seized of the situation in Kasai, Democratic Republic of the Congo.
